

By: Kuempel

H.B. No. 3666

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of certain permitting decisions made by the Texas Commission on Environmental Quality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.354, Water Code, is amended to read as follows:

Sec. 5.354. VENUE. (a) Except as provided by Subsection (b), a [A] suit instituted under Section 5.351 or 5.352 [of this code] must be brought in a district court in Travis County.

(b) A suit instituted under Section 5.351 that relates to the issuance of a permit under Chapter 26 must be brought in a county in which the permitted point of discharge of waste is located or proposed to be located.

SECTION 2. Subchapter I, Chapter 5, Water Code, is amended by adding Section 5.3541 to read as follows:

Sec. 5.3541. SCOPE OF JUDICIAL REVIEW OF CHAPTER 26 PERMIT.

(a) This section applies only to a suit instituted under Section 5.351 that relates to the issuance of a permit under Chapter 26.

(b) The scope of review by the court is limited to:

(1) an argument brought before the commission during consideration of the ruling, order, decision, or other act that is the subject of the suit; and

(2) an allegation of the commission's violation of this code or a commission rule committed during consideration of

1 the ruling, order, decision, or other act that is the subject of the
2 suit.

3 (c) The petition submitted under Section 5.351 must
4 include:

5 (1) a citation to each specific section of the
6 statutes and rules involved in the matter under review; and

7 (2) a citation to the administrative record to support
8 each allegation in the petition.

9 (d) The court shall give deference to the actions of the
10 commission consistent with applicable law and may find an action
11 unlawful only if:

12 (1) no evidence supports the commission's action; or

13 (2) the commission's action was not based on a
14 permissible construction of the statute.

15 (e) The court may not substitute its judgment for a judgment
16 of the commission on water quality degradation.

17 SECTION 3. The changes in law made by this Act apply only to
18 a suit instituted under Section 5.351, Water Code, on or after the
19 effective date of this Act. A suit instituted under Section 5.351,
20 Water Code, before the effective date of this Act is governed by the
21 law in effect at the time the suit was instituted, and the former
22 law is continued in effect for that purpose.

23 SECTION 4. This Act takes effect September 1, 2023.